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Order No. P. 4651 *Legis.* 22-37-1, *dated Bangalore,* 10*th February* 1938.

Ordered that the accompanying Code of Civil Procedure (Amendment) Act of 1938 which received the assent of His Highness the Maharaja, on the fourth day of February 1938, be published as Act No. IX of 1938 in the *Mysore Gazette*, for general information.

M. VENKATESA IYENGAR,
Secretary to Government,
General Department.

ACT IX OF 1938.

(*Received the assent of His Highness the Maharaja on the fourth day of February* 1938.)

An Act further to Amend the Code of Civil Procedure, 1911.

Whereas it is expedient further to amend the Code of Civil Procedure, 1911, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short Title

1. (*a*) This Act may be called the Code of Civil Procedure (Amendment) Act of 1938.

(*b*) It shall extend throughout the State of Mysore.

(*c*) It shall come into force from first July 1938.

Addition of Proviso to section 51.

2. To section 51 of the Code of Civil Procedure, 1911 (hereinafter referred to as the said Code), the following proviso shall be added, namely:—

"Provided that where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity for showing cause why he should not be committed to prison, the Court for reasons recorded in writing, is satisfied—

(*a*) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,—

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed or removed any part of his property, or committed any other act of bad faith in relation to his property; or

(*b*) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same; or

(*c*) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation.—In the calculation of the means of the judgment-debtor for the purposes of clause (*b*), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.

MIRZA M. ISMAIL,
Dewan.

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